

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
JANET ANNOR,

Docket No.

Plaintiff,

-against-

HOME DEPOT U.S.A., INC. D/B/A HOME DEPOT

**NOTICE OF REMOVAL OF
ACTION UNDER 28 U.S.C.
§1446(a) DIVERSITY**

Defendant.

-----X

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK:**

PLEASE TAKE NOTICE that Defendant HOME DEPOT U.S.A., INC. (“Home Depot”), sued herein as, HOME DEPOT USA, INC. D/B/A HOME DEPOT, hereby submits this Notice of Removal, with full reservation of all defenses, from the Supreme Court of the State of New York, County of Bronx, to the United States District Court, Southern District of New York in accordance with 28 U.S.C. §1446 and respectfully represents as follows:

PLAINTIFF'S COMPLAINT AND NATURE OF THE ACTION

1. This action was commenced against Home Depot in the Supreme Court of the State of New York, County of Bronx, with the Index Number 812562/2022E and was electronically filed August 26, 2022.

2. Pursuant to 28 U.S.C. §1446(a), a copy of the Complaint is attached hereto as **Exhibit “A.”**

3. In his Complaint, Plaintiff alleges personal injury from an incident which occurred on March 4th, 2021, at 2560 Bruckner Blvd, Bronx, NY 10465, New York, in the County of Bronx, City and State of New York due to Defendant’s negligence (See ¶17 of **Exhibit “A”**).

4. Home Depot U.S.A., Inc. was served on September 9, 2022 through the Secretary of State.

DIVERSITY JURISDICTION IS PROPER

5. No further proceedings have been had in the Supreme Court of the State of New York, County of Bronx, as of the date of the filing of this Notice of Removal.

6. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. §1332. The plaintiff has asserted a written demand for damages in excess of \$75,000, exclusive of interest and costs and complete diversity of citizenship exists between Plaintiff and Defendant Home Depot U.S.A., Inc.

DIVERSITY EXISTS

7. This firm represents Defendant Home Depot in this action.

8. At the time that this action was filed, Home Depot, was and still is a corporation organized and existing under the laws of the State of Delaware and having the principal place of business at 2455 Paces Ferry Road SW, Atlanta, Georgia.

9. Pursuant to 28 U.S.C. section 1332(c), "a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business." For the purposes of federal diversity jurisdiction, based upon the above, Defendant is not citizens of the State of New York.

10. The Plaintiff, in the Complaint, alleges to be a citizen of the State of New York with a residence in the County of Bronx **Exhibit “A”**.

11. Therefore, this action may be removed to this Court pursuant to 28 U.S.C. §1441.

THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

12. Plaintiff's counsel has made a demand confirming that they seek recovery in an amount in excess of \$75,000, exclusive of interest and costs. Plaintiff's Verified Complaint cannot state the amount of damages Plaintiff deems herself entitled to (CPLR 3107(c)).

13. Plaintiff confirmed in an email that Plaintiff's seeks an amount, \$900,000 or more, which is well in excess of \$75,000.

14. Home Depot reserves its rights to contest the nature and extent of liability of plaintiff's damages. Nevertheless, if liability is ever established, the allegation that Plaintiff sustained serous personal injuries, if proven, may convince a trier of fact to award such injured plaintiff an amount in excess of \$75,000.

REMOVAL IS TIMELY

15. Pursuant to 28 U.S.C. §1446(b), which provides that a Notice of Removal shall be filed within thirty (30) days after receipt by defendant, by service or otherwise, of the initial pleading or of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable, this Notice of Removal is timely filed.

NOTICE

16. Pursuant to 28 U.S.C. §1446, a copy of this Notice of Removal is being filed with the Supreme Court of the State of New York, County of Bronx.

VENUE IS PROPER

17. The United States District Court for the Southern District of New York includes the county in which the state court action was pending (Bronx County) and thus, pursuant to 28 U.S.C. §124(b)(2), venue is proper.

RESERVATION OF DEFENSES AND RIGHTS

18. Home Depot reserve all defenses, including, without limitation, the defense of lack of personal jurisdiction.

19. Home Depot reserves the right to amend or supplement this Notice of Removal.

20. If any question arises as to the propriety of the removal of this action, Home Depot respectfully requests the opportunity to present a brief and oral argument in support of its position that this case is removable.

THEREFORE, all parties to the Civil Action pending in the Supreme Court of the State of New York, County of Bronx, Index No. 812563/2022 are **HEREBY NOTIFIED** pursuant to 28 U.S.C. §1446 and Local Civil Rule 81.1, as follows:

Removal of the Civil Action and all claims and causes of action therein is effected upon the filing of a copy of this Notice of Removal with the Clerk of the State Court pursuant to 28 U.S.C. §1446. The Civil Action is removed from the State Court to the United States District Court, Southern District of New York. The parties to the Civil Action shall proceed no further in the State Court.

WHEREFORE, Defendant HOME DEPOT U.S.A., INC., sued herein as, HOME DEPOT USA, INC. D/B/A HOME DEPOT, prays that this cause of action now pending in the Supreme Court of the State of New York, County of Bronx, be removed to the United States District Court, Southern District of New York.

Dated: New York, New York
September 27, 2022

AARONSON RAPPAPORT FEINSTEIN &
DEUTSCH, LLP

Peter J. Fazio

By: _____

Peter J. Fazio (PJF1211)
Attorneys for Defendant
HOME DEPOT U.S.A., INC.
600 Third Avenue
New York, New York 10016
212-593-5458
pjfazio@arfdlaw.com

TO:

James Hodnet, Esq.
ADAM D. POLO, ESQ., P.C
Attorneys for Plaintiff Janet Annor
8 W 38th Street, Suite 803
New York, New York 10038
212-221-6221